

§ 536.302

5 CFR Ch. I (1–1–08 Edition)

5 U.S.C. chapter 53, subchapter IV, and 5 CFR part 532.

(b) If an employee's official worksite changes in conjunction with an action that may entitle the employee to pay retention under paragraph (a) of this section, the agency must apply the geographic conversion rule in § 536.303(a) before determining whether an employee's rate of basic pay otherwise would be reduced.

(c) An employee is considered "placed" under paragraph (a)(2), (3), (4), and (5) of this section only when the employee remains in a position in the same agency. Optional pay retention under § 536.302 may apply when an employee transfers to a different agency as a result of a reduction in force or reclassification action or is selected by a different agency to fill a position under a formal employee development program, if all other qualifying conditions are met.

(d) Eligibility for pay retention under this section ceases under the conditions specified in § 536.308.

§ 536.302 Optional pay retention.

(a) Subject to the requirements in § 536.102 and this section, an authorized agency official may provide pay retention to an employee not entitled to pay retention under § 536.301, but whose payable rate of basic pay otherwise would be reduced (after application of any applicable geographic conversion under § 536.303(a)) as the result of a management action. This includes a management action to move an employee's position, without a break in service of more than 3 days, from a Department of Defense or Coast Guard nonappropriated fund instrumentality (as defined in 5 U.S.C. 2105(c)) to a position under a covered pay system in the same agency.

(b) If an employee's official worksite changes in conjunction with an action that may entitle the employee to pay retention under paragraph (a) of this section, the agency must apply the geographic conversion rule in § 536.303(a) before determining whether an employee's rate of basic pay otherwise would be reduced.

(c) Eligibility for pay retention under this section ceases under the conditions specified in § 536.308.

§ 536.303 Geographic conversion.

(a) *Geographic conversion at time of action that may provide initial entitlement to pay retention.* If, in conjunction with a pay action that may entitle the employee to pay retention under §§ 536.301 or 536.302, an employee's official worksite is changed to a new location where different pay schedules apply, the agency must convert the employee's rate(s) of basic pay to the applicable pay schedule(s) in the new location before applying the pay retention rules in this subpart or any other simultaneous pay action (other than a general pay adjustment). The agency must identify the highest applicable rate range that would apply to the employee's position of record before the pay action as if that position were stationed at the new official worksite and determine the employee's converted payable rate of basic pay based on the step (or rate) in that range that corresponds to the employee's step (or rate) before the pay action. A reduction in an employee's payable rate of basic pay resulting from this geographic conversion is not a basis for entitlement to pay retention. The pay retention rules in this subpart must be applied as if the employee's payable rate of basic pay after geographic conversion is the employee's existing payable rate of basic pay in effect immediately before the action.

(b) *Geographic conversion when a retained rate employee's official worksite is changed.* When an employee is receiving a retained rate and the employee's official worksite is changed to a new location where different pay schedules apply, the agency must apply the following rules (after applying any simultaneous general pay adjustment under § 536.305) to derive the converted retained rate that will be used as the existing retained rate in determining the employee's pay retention entitlement in the new position of record and at the new official worksite:

(1) Identify the maximum rate for the highest applicable rate range that applies to the employee's former position of record based on the former official worksite;

(2) Identify the maximum rate for the highest applicable rate range that would apply to the employee's former

position of record if the employee were stationed at the official worksite for the new position of record;

(3) Divide the maximum rate identified in paragraph (b)(2) of this section by the maximum rate identified in paragraph (b)(1) of this section and round the result to the fourth decimal place; and

(4) Multiply the factor resulting from paragraph (b)(3) of this section by the employee's former retained rate and round to the nearest whole dollar (for an annual rate) or the nearest whole cent (for an hourly rate) to derive the employee's converted retained rate at the new official worksite.

§ 536.304 Determining an employee's pay retention entitlement.

(a) *General.* (1) When an employee becomes entitled to pay retention under § 536.301 or 536.302 or undergoes a change in his or her position of record or pay schedule while receiving a retained rate (when the terminating conditions for pay retention under § 536.308 do not apply), the agency must determine the employee's pay retention entitlement following the rules in this section.

(2) Any general pay adjustment (including a retained rate adjustment under § 536.305) that takes effect on the same date as an action described in paragraph (a)(1) of this section must be processed first, before any other pay action and before applying the rules in paragraphs (a)(3), (a)(4), (b), or (c) of this section, as applicable.

(3) If the location of an employee's official worksite changes in conjunction with an action that may provide initial entitlement to pay retention, the agency must apply the geographic conversion rule under § 536.303(a) before applying the rules in paragraph (b) of this section. The converted rate of basic pay must be treated as the employee's existing payable rate of basic pay in applying those rules.

(4) If the location of an employee's official worksite changes while he or she is receiving a retained rate, the agency must apply the geographic conversion rule under § 536.303(b) before applying the rules in paragraph (c) of this section. The converted retained rate must be treated as the employee's ex-

isting retained rate in applying those rules.

(5) When an employee's pay retention entitlement is established or redetermined under this section on the same effective date as other pay actions that affect an employee's rate of basic pay, the actions must be processed in the order prescribed under the rules governing the covered pay system of the employee's position of record (e.g., 5 CFR 531.206 for GS positions and 5 CFR 532.413 for Federal Wage System positions).

(6) In applying this section, an agency must convert an employee's existing annual rate of pay to an hourly rate of pay if the employee's new position is under a pay system that uses only hourly rates. An agency must convert an employee's existing hourly rate of pay to an annual rate of pay if the employee's new position is under a pay system that uses annual rates of pay.

(b) *Determining initial pay retention entitlement.* When an employee becomes entitled to pay retention under § 536.301 or 536.302, the agency must determine the employee's pay retention entitlement under the following rules (subject to the requirements in paragraph (a) of this section):

(1) If an employee's existing payable rate of basic pay is less than or equal to the maximum rate of the highest applicable rate range for the grade of the employee's position of record immediately after the event causing the pay retention entitlement, the employee is entitled to the lowest rate of basic pay in such rate range that equals or exceeds the employee's existing payable rate of basic pay. If an employee's payable rate of basic pay is set at or below the maximum rate of the highest applicable rate range, pay retention under this subpart ceases to apply to the employee.

(2) If the employee's existing payable rate of basic pay is greater than the maximum rate of the highest applicable rate range for the grade of the employee's position immediately after the event causing the pay retention entitlement, the employee is entitled to a retained rate equal to the employee's existing payable rate of basic pay, subject to the limitations in paragraph (b)(3) of this section.